

Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANT:

**MICHAEL B. TROEMEL**  
Lafayette, Indiana

**CASA OFFICE**  
Lafayette, Indiana

ATTORNEY FOR APPELLEE:

**CHARLES R. DEIBLE**  
Gambs, Mucker & Bauman

---

**IN THE  
COURT OF APPEALS OF INDIANA**

---

IN THE MATTER OF THE TERMINATION )  
OF THE PARENT-CHILD RELATIONSHIP )  
OF I.E.A.T., minor child )  
DESTINY (WOOTEN) JACKSON, natural mother )  
 )  
DESTINY (WOOTEN) JACKSON, )  
 )  
Appellant-Respondent, )  
 )  
vs. )  
 )  
TIPPECANOE COUNTY DEPARTMENT )  
OF CHILD SERVICES, )  
 )  
Appellee-Petitioner. )

No. 79A02-0701-JV-68

---

APPEAL FROM THE TIPPECANOE SUPERIOR COURT  
The Honorable Loretta H. Rush, Judge  
Cause No. 79D03-0602-JT-28

---

**April 24, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**RILEY, Judge**

STATEMENT OF THE CASE

Appellant-Respondent, Destiny Wooten Jackson (Mother), appeals the trial court's involuntary termination of her parental rights to I.T.

We affirm.

ISSUE

Mother raises one issue on appeal, which we restate as: Whether the evidence was sufficient to terminate her parental rights to I.T.

FACTS AND PROCEDURAL HISTORY

On February 24, 2006, the Tippecanoe County Department of Child Services (TCDCS) filed a Petition to Terminate Mother's parental rights to I.T. On August 30, 2006, the trial court held a hearing on the petition. On September 5, 2006, the trial court issued the following order, in pertinent part, terminating Mother's rights to I.T.:

**ORDER TO TERMINATE PARENT-CHILD RELATIONSHIP**

\* \* \*

The [c]ourt finds as follows:

1. [Mother] and David Allan Thomas [(Thomas)] are the parents of [I.T.], born March 31, 2005. [Thomas] voluntarily terminated his parental rights to [I.T.] on June 6, 2006.
2. Mother's parental rights to [T.W.], born September 29, 1999, were terminated on January 5, 2006 . . . In that case, among other findings, the [c]ourt found that the minor child had been physically and sexually abused while in Mother's care. Mother admitted to the [Child in Need of Services (CHINS)] in that case. [TCDCS] substantiated sexual molest of [T.W.] by Mother's boyfriend, [Thomas]. At the time that Mother moved in with [Thomas], he had only supervised visitation with

his other children based on allegations of sexual molest. Mother then became pregnant with [I.T.] while [T.W.] was in foster care. Mother chose to continue to reside with [Thomas].

3. Mother had a previous child, [S.W.], born September 24, 2003. Following the sexual molest of [T.W.] by [Thomas], [S.W.] and [T.W.] were placed in the care of their father. Mother agreed to place [T.W.] in his father's care, in spite of her awareness of his history of violence and abuse of [T.W.]. [S.W.] died as a result of non-accidental injuries causing major neurological damage[] with criminal charges pending against Jessica Sargent, father's girlfriend.
4. Extensive services were provided to Mother in [T.W.'s] case from September 2004, including individual counseling, family counseling, supervised visitation, drug screens, parenting classes, psychological evaluation, family preservation, case management, pre-natal care, [Sexual Abuse Family Treatment Intervention Program (SAFTIP)] counseling and services, and CA/RE Group. Mother failed to continue with her court-ordered services.
5. [I.T.] was placed in foster care following his birth, partially based on Mother's decision to continue to reside with [Thomas] who had a substantiated case of molest against [T.W.], as well as a similar history with his own children. [I.T.] was found to be a CHINS on June 30, 2005. Dispositional services were ordered for Mother and included: weekly individual counseling, supervised visitation, SAFTIP evaluation, family preservation services [], bonding and attachment therapy, assistance in maintaining employment and housing[,] and others, including being ordered to live alone and focus on reunification. Regular review hearings were held and additional services were ordered, including: individual therapy twice a week, parenting classes, and Thinking for a Change program.
6. HGCF provided intensive wrap-around services, including: parent training, individual therapy, parent-child contact, vocational assistance, housing assistance, group counseling[, bonding,] and attachment. Mother would not attend her services, would not complete assignments and had, at best, inconsistent participation. Mother's supervised visitations were moved from her home back into the office; Mother missed over 50% of her visits with her son. According to HGCF, Mother failed to show any motivation towards being reunified with [I.T.], and ["she] appears to blame everyone else and takes no responsibility for her actions. I also feel that her lack of initiative to

- keep her appointments also shows that she doesn't want to do what she needs in order to have reunification with her son."
7. Mother was also ordered to attend [I.T.'s] medical appointments; Mother missed some of those appointments.
  8. While Mother initially attended her individual therapy appointments at the Counseling Center, Mother stopped attending on December 1, 2005. Prior to that time, Mother missed approximately 60% of her individual counseling sessions by no-showing or canceling the scheduled appointments.
  9. Mother received a psychological evaluation from Jeffrey Vanderwater-Piercy, Ph.D., HSPP [(Dr. Piercy),] Psychologist, on February 4, 2005. Dr. Piercy found, "[Mother] uses an avoidant style of coping wherein she overlooks or ignores anything that might be distressing or disruptive. Her desire to look the other way makes it exceedingly difficult for her to confront unpleasant circumstances, such as the substantiated sexual molestation of her son. [Mother] tends to analyze situations in a hasty, careless, and arbitrary fashion. Consequently, she is at high risk for errors of oversight when it comes to making decisions concerning her children." Petitioner's Ex. 11.
  10. Dr. Piercy noted Mother's lack of critical thinking with several examples[:] continuing to reside with [Thomas] regardless of the information of her son's molest, and agreeing to let [T.W.] live with his father even though she was aware of his extensive history of violence and abuse. Dr. Piercy recommended that to provide a child with safe parenting, Mother would have needed to continue with therapy and medication monitoring.
  11. Mary Jo Cuculic [(Cuculic)] was the TCDCS family case manager on both [T.W.'s and I.T.'s] CHINS cases. Cuculic testified that Mother has demonstrated that [I.T.] is not her top priority. Mother has not complied with court orders or maintained visitation. Cuculic further testifies that Mother ceased participation in therapy, missed family preservation sessions, did not complete parenting assignments, has been dishonest with all providers and remains a safety risk to her young child. After years of offered services and assistance, Mother cannot provide a safe home for [I.T.].
  12. Karla Ross [(Ross)] has been [I.T.'s] Court Appointed Special Advocate (CASA) throughout the CHINS case. According to the

CASA, “[n]either parent has been able to attain those goals set forth in order to gain custody of [I.T.]. They have also lied about their relationship throughout the court proceedings. Over the past year, [Thomas and Mother] have not shown any progress. There is no reason to believe that more time will produce any changes. [I.T.] has never lived in the care of either of his parents since his birth. [Mother] has been unable to fully bond with [I.T.] due to her lack of consistent visitation. Neither parent has shown the ability to make decisions that would provide a safe environment for [I.T.]. [I.T.] is a very adoptable child that needs and deserves permanency in his life, so that he can establish a strong and permanent bond with a forever family.” CASA Ex. C-1.

13. CASA testified that the treatment team worked hard with Mother towards reunification. CASA has worked with this family for approximately two years. CASA testified that Mother is not able to make decisions to keep her child safe. . . .
14. Throughout the CHINS case, Mother demonstrated non-compliance with the court-ordered services and dishonesty with service providers. . . Mother was found in contempt of court orders on several occasions.
15. While Mother initially remained involved with [Thomas], she met James Jackson [(Jackson)] in February 2006 and married him three months later on May 26, 2006. Mother failed to disclose this information to TCDCS or any member of the treatment team. Mother’s husband failed to take a drug screen or submit written information, both repeatedly requested by the TCDCS. Since Mother’s other children had been injured by individuals that have been involved with the parents, Mother should have notified the treatment team so [Jackson’s] prior history could have been investigated.
16. Mother loves her child and has suffered the loss of two other children. When Mother did attend her visitations, she was loving and affectionate. Mother is currently employed and has a nice house with [Jackson].
17. Mother has demonstrated a history of instability in all respects of her life; she has been terminated from employment for falsifying records and missing work, she remained in contact with [Thomas] despite a no-contact order, she has had numerous individuals stay in her home that have histories of molest, domestic violence and substance abuse, she has had parties and alcohol in her home, had utilities disconnected, [had]

numerous eviction actions, and she dropped out of school and has never received her GED.

18. Mother's habitual pattern of conduct of not making her children's needs a priority creates a substantial probability of future neglect and mistreatment of [I.T.]. Mother's failure to recognize and address her parental shortcomings in treatment and in services poses a danger to the safety of a child in her care.
19. The [c]ourt further finds, as a matter of law, that the child was removed from the parent's home under a dispositional order dated more than six months prior to the filing of the Petition to Terminate Parental Rights.
20. The [c]ourt finds, as a matter of law[,] that reasonable, appropriate, necessary services have been offered to Mother and child over an extended period of time commencing with her previous child's removal [in] September 2004 . . . .
21. The [c]ourt finds, as a matter of law, that after approximately [twenty-four] months of rendering services of various kinds with different providers to this family that there is not any basis for any reasonable belief that the circumstances which resulted in the removal of the child from Mother's care or the reasons for continued placement outside the home have been or will be remedied. . . .
22. The [c]ourt finds, as a matter of law, that the continuation of the parent-child [relationship] poses a threat to the well being of the child.
23. The [c]ourt finds, as a matter of law, that it would not be in the best interests of the child to try to reunite this family.
24. The [c]ourt further finds that the TCDCS has an acceptable, reasonable, appropriate and satisfactory plan for the care and treatment of the child. The child can be adopted. The plan is that he be adopted.

(Appellant's App. pp. 701-05) (internal citations omitted).

Mother now appeals. Additional facts will be provided as necessary.

## DISCUSSION AND DECISION

Mother argues that the evidence was not sufficient to terminate her parental rights to I.T. We will not set aside a trial court's order to terminate parental rights unless it is clearly erroneous. *In re Involuntary Termination of Parent Child Relationship of A.H.*, 832 N.E.2d 563, 570 (Ind. Ct. App. 2005). In determining whether the evidence is sufficient to support the judgment of termination, we neither reweigh the evidence nor judge the credibility of witnesses. *Id.* We consider only the evidence that supports the judgment and the reasonable inferences to be drawn therefrom. *Id.*

The involuntary termination of parental rights is the most extreme measure that a court can impose and is designed only as a last resort when all other reasonable efforts have failed. *In re D.G.*, 702 N.E.2d 777, 780 (Ind. Ct. App. 1998). This policy is in recognition of the Fourteenth Amendment to the United States Constitution, which provides parents with the right to establish a home and raise children. *See id.* However, these protected parental rights are not absolute and must be subordinated to the children's interest to maintain the parent-child relationship. *Id.*

The purpose of terminating parental rights is not to punish parents but to protect their children. *Matter of A.N.J.*, 690 N.E.2d 716, 720 (Ind. Ct. App. 1997). Although parental rights have a constitutional dimension, the law allows for their termination when parties are unable or unwilling to meet their responsibility as parents. *Id.* In the present case, to effect the involuntary termination of Mother's parental rights to her children, the TCDCS must have presented clear and convincing evidence establishing that:

(A) one (1) of the following exists:

- (i) the child has been removed from the parent for at least six (6) months under a dispositional decree;
- (ii) a court has entered a finding under Ind. Code § 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made; or
- (iii) after July 1, 1999 the child has been removed from the parent and has been under the supervision of a county officer of family and children for at least fifteen (15) months of the more recent twenty-two (22) months;

(B) there is reasonable probability that:

- (i) the condition that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or
- (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

(C) termination is in the best interests of the child; and

(D) there is a satisfactory plan for the care and treatment of the child.

I.C. § 31-35-2-4(b)(2).

Additionally, in determining whether a reasonable probability exists that the reasons for removal will not be remedied, the trial court must judge the parent's fitness to care for the children at the time of the termination hearing, taking into consideration any evidence of changed conditions. *In re Termination of Parent-Child Relationship of D.D.*, 804 N.E.2d 258, 266 (Ind. Ct. App. 2004), *trans. denied*. A trial court must also "evaluate the parent's habitual patterns of conduct to determine the probability of future neglect or deprivation." *Id.*



In the case at hand, we find that Mother essentially offers no arguments with any sound legal basis; yet, due to the gravity of terminating a parent's rights to his or her child, we will address her contentions to the degree that we can. First, she alleges that it was improper for the trial court to determine that continuation of her relationship with I.T. poses a threat to I.T.'s well-being based on her association and relationship with Thomas. Specifically, Mother asserts that the evidence shows she no longer had a relationship with Thomas at the time of the termination hearing. We find no merit in this argument. Whether or not Mother continued her relationship with Thomas, the fact that she maintained a relationship with him for any time at all reflects poor parenting and decision-making skills. Despite substantiated allegations of sexual molest to more than one child, the record discloses that Mother moved in with Thomas and continued to associate with him even after the trial court issued orders that she was not to have contact with him. Thus, Mother's decision to leave Thomas undoubtedly comes as too little, too late.

Related to the above argument, Mother faults the trial court for relying on the potential harm to I.T. should their relationship continue, stating that such "speculative situations" are not a basis for termination. (Appellant's Br. p. 21). Again, we conclude that this rationale fails. In the record before us, there is ample evidence that Mother has put herself and her children into multiple dangerous environments in the past. Not only did she choose to maintain a relationship with Thomas, who posed a threat of sexual molest to her children, but the record indicates that one of her children died as a result of being placed with his father's girlfriend. The record further shows that another of her

children was removed from her care after she and the father used the child to engage in a tug of war. Therefore, we do not find that the trial court was merely speculating when it determined that there is likelihood of a threat to I.T.'s well being. Rather, the record is complete with examples of Mother's inability to protect her children.

Additionally, Mother argues that the trial court should not have penalized her for not notifying her treatment team that she married Jackson. Once again, regardless of whether or not she was absolutely required to inform her treatment team of her marital status, Mother has failed in so many other significant respects to exhibit any commitment to raising I.T. that this detail is moot. Moreover, in the next breath, Mother asks this court to place heavy weight on her decision to marry Jackson, as her life has made a positive turn since marrying him. In our view, if Mother had married Jackson to increase her chances of reunification with I.T., we believe she would have felt strongly compelled to inform CASA and all of her other service providers of this change in her life.

Moreover, none of Mother's arguments on appeal change our ultimate conclusion that the TCDCS presented sufficient evidence to terminate her parental rights to I.T. First, we note that I.T., born in March of 2005, has never been in the care or custody of Mother. Also, our review of the record clearly indicates that attempts at providing Mother services and a chance for reunification have failed. Furthermore, as previously stated, it is also evident by way of Mother's pattern of relationships and conduct that continuation of the parent-child relationship poses a threat to I.T.'s well being. Finally, as plans are being made for I.T. to be adopted, there is no question that termination of his relationship with Mother is in his best interests. *See* I.C. § 31-35-2-4(b)(2).

### CONCLUSION

Based on the foregoing, we conclude that the trial court properly terminated Mother's parental rights to I.T.

Affirmed.

NAJAM, J., and BARNES, J., concur.